

collecting data over a sample interval. In other words, Cruickshank describes variation in the *rate* at which *data* is collected, or taken. Cruickshank does not teach *sending measurement packets* with an adjustable distribution in time, as recited in claim 25. The feature of sending measurement packets with an adjustable distribution in time, as recited in claim 25, is described in paragraph [0047] of the Specification of the present application, which states that “measurement packets are sent from first measuring computer 28 to second measuring computer 30 with an adjustable distribution in time (for example, a constant or exponential distribution).” Thus, the description in Cruickshank of collecting data over a sample interval does not teach sending measurement packets with an adjustable distribution in time as recited in claim 25.

The Advisory Action dated December 18, 2007 maintains that “the so called distribution is an act of sending measured data from a first device to a second device, which is functionally equivalent to collecting.” Again, Applicants respectfully disagree. It is respectfully submitted that sending data is not the functional equivalent of collecting data, nor would a person of ordinary skill in the art understand sending to be the same as collecting. Specifically, as more fully set forth above, the description in Cruickshank of collecting data over a sample interval does not teach sending measurement packets with an adjustable distribution in time as recited in claim 25. Because Cruickshank fails to teach at least the above-recited feature of claim 25, it cannot anticipate claim 25 or any of its dependent claims.

Reconsideration and withdrawal of the rejection of claims 25, 36, 37, and 39 to 44 under 35 U.S.C. §102(e) based on Cruickshank is respectfully requested.

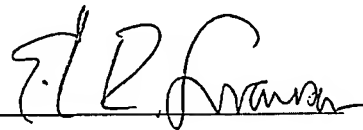
CONCLUSION

Each and every point raised in the Final Office Action dated August 29, 2007 has been addressed on the basis of the above remarks. In view of the foregoing it is believed that claims 25 to 55 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: January 29, 2008

Respectfully submitted,

By 

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Attachment: Declaration under 37 C.F.R. § 1.131 with accompanying Exhibits A, B and C
(31 pages total)